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12 SALESFORCE.COM, INC., a Delaware corporation,

13 Plaintiff,
14 vs

15 THE COMPUTER MERCHANT, LTD., a
16 Massachusetts corporation.

17 Defendant

18 THE COMPUTER MERCHANT, LTD., a
19 Massachusetts corporation

20 Counter-Claimant

21
VS.

22 SALESFORCE.COM, INC., a Delaware
23 corporation; ASTADIA CONSULTING,
24 LLC, a limited liability company, state of
organization unknown, and DOES 1
25 THROUGH 10.

26 Counter-Defendants

Case No. 07-CV-03556-WHA

**COUNTERCLAIM OF ASTADIA
CONSULTING, LLC AGAINST THE
COMPUTER MERCHANT, LTD.**

1 Counter-Defendant and Counterclaimant Astadia Consulting, LLC

2 (“Astadia”) alleges as follows:

3 **JURISDICTION AND VENUE**

4 1. These are compulsory counterclaims Astadia brings as against The
 5 Computer Merchant, Ltd. (“TCM”). The Court has jurisdiction over the original
 6 action pursuant to 28 U.S.C. §1332. Venue is appropriate in this District pursuant
 7 to a forum selection clause contained in the agreement between TCM and
 8 Salesforce.com (“SFDC”), which gave rise to the original action.

9 **FACTUAL ALLEGATIONS**

10 2. Astadia’s predecessor, GrowthCircle LLC, and TCM entered into a
 11 “Professional Services Agreement” (“PSA”), a copy of which is attached to the
 12 counterclaim of TCM against Astadia as Exhibit B.

13 3. Astadia is the legal successor of GrowthCircle and is entitled to
 14 bring these counterclaims to recover for the amounts owed by TCM.

15 4. Pursuant to the PSA, Astadia provided professional services for
 16 which it invoiced TCM in the amount of \$184,318.06, which has not been paid by
 17 TCM.

18 **FIRST CLAIM FOR RELIEF**

19 **(Breach of Contract)**

20 5. Astadia incorporates by this reference paragraphs 1 through 4
 21 inclusive.

22 6. Astadia performed all conditions, obligations, and covenants
 23 required of it under the PSA.

24 7. Despite Astadia’s demands therefor, TCM has failed and refused and
 25 continues to fail and refuse to pay the amounts owed it under the terms of the
 26 PSA. Such refusal to pay constitutes an actual and anticipatory breach of the PSA.

1 8. As proximate result of TCM's breach, Astadia has incurred damages
2 of \$184,381.06, plus interest on such amount at the legal rate.

SECOND CLAIM FOR RELIEF

(Account Stated)

5 9. Astadia incorporates by this reference paragraphs 1 through 8
6 inclusive.

7 10. Within the last four years, TCM became indebted to Astadia because
8 an account was stated in writing between TCM and Astadia in which it was agreed
9 that TCM was indebted to Astadia in the amount of \$184,318.06.

11. Neither the whole or part of the above sum had been paid, although a
demand therefore has been made, and there is now due, owing and unpaid the sum
of \$184,318.06, plus interest thereon.

THIRD CLAIM FOR RELIEF

(Book Account)

15 12. Astadia incorporates by this reference paragraphs 1 through 8
16 inclusive.

17 10. Within the last four years, TCM became indebted to Astadia on an
18 open book account in the amount of \$184,318.06.

11. Neither the whole or part of the above sum had been paid, although a
demand therefore has been made, and there is now due, owing and unpaid the sum
of \$184,318.06, plus interest thereon.

22 WHEREFORE, Astadia prays for judgment as follows:

23 1. For damages in the amount of \$184,318.06;

24 2. For interest at the legal rate on all unpaid amounts from the time
25 payment was due until the date of the judgment;

26 3. For costs of suit; and

1 4. For such other and further relief as the Court deems just and proper.

2 Dated: September 25, 2007 McGRANE GREENFIELD LLP

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5 By: /s/ Christopher D. Sullivan
6 CHRISTOPHER D. SULLIVAN
7 Attorneys for Counter-Defendant
8 Astadia Consulting LLC

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